

SUPPORT FOR THE AMENDMENTS

Support for the amendment to claim 1 is found in claim 13 as originally presented.

No new matter would be added to this application by entry of this amendment.

Upon entry of this amendment, claims 1-10 and 14-19 will now be active in this application.

REQUEST FOR RECONSIDERATION

The claimed invention is directed to a food product containing a diacylglycerol oil and sodium stearoyl lactylate.

Diglyceride oils have received interest as having beneficial health effects and are an oil which is not stored as fat. Baked goods containing oils typically rely on the formation of an oil-in water emulsion at some stage of preparation. Techniques for forming stable oil-in-water emulsions of diglyceride containing compositions are still sought.

The claimed invention addresses this problem by providing a food product comprising a diacylglycerol oil and sodium stearoyl lactylate. Applicants have discovered that sodium stearoyl lactylate provides for a more stable oil-in-water emulsion for diglyceride oils. A food product comprising a diglyceride oil and sodium stearoyl lactylate is nowhere disclosed or suggested in the cited references of record.

The rejection of claims 2, 12-16, 18, 19 and 25 under 35 U.S.C. §103(a) over Goto et al. EP 0990391A is respectfully traversed.

Goto et al. fail to disclose or suggest a food product containing a diacylglycerol and sodium stearoyl lactylate nor the improved oil-in-water emulsion stability resulting from such a combination.

Goto et al. discloses a oil or fat composition as an emulsified oil-in-water type emulsion (example (1)) as well as baked cookies comprising a diacylglycerol, flour, sugar,

egg, table salt, baking powder but no emulsifier (example 5)). There is no disclosure of the combination of diacylglycerol with sodium stearoyl lactylate nor the improved emulsion stability and crumb softness resulting from such a combination.

As evidence of an improved emulsion stability resulting from the combination of diacylglycerol and sodium stearoyl lactylate the examiner's attention is directed to Figure 1C of applicants' specification in which the volume of emulsion interface was measured relative to emulsifier concentration for a number of high HLB emulsifiers. The emulsion interface volume was consistently higher with the emulsifier sodium stearoyl lactylate (SSL) as compared with emulsifiers of PS60, PS80 and EtMono. The discovery of an improved emulsion stability by selection of sodium stearoyl lactylate with diacylglycerol is not suggested by Goto et al.

Further, applicants have discovered improved dough properties by use of SSL in an oil-based cookie dough. The examiner's attention is directed to paragraph [0078] appearing on page 36 of the specification in which it is reported that a dough containing diacylglycerol and SSL was more easily handled and machined than a diacylglycerol dough using other emulsifiers such as deoiled lecithin. Positive changes in texture were also observed. Thus, by selection of SSL with diacylglycerol oil, applicants have discovered improved dough properties.

Applicants note that the claims have been amended to recite the combination of diglyceride oil with sodium stearoyl lactylate, as recited in original claim 13.

Since Goto et al. merely describe the use of a generic emulsifier in the formation of an oil-in-water emulsion, there is no suggestion that SSL in combination with a diglyceride oil would provide enhanced emulsion stability or improved dough characteristics. Applicants have already demonstrated improved emulsion stability relative to other emulsifiers such that

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applicants' observation of improved emulsion stability is not suggested by the cited reference.

In view of the failure of the cited reference to suggest an improved emulsion stability or improved dough properties resulting from the combination of SSL and a diglyceride oil, the claimed invention is not obvious from this reference and withdrawal of the rejection under 35 U.S.C. 103(a) is respectfully requested.

The rejections of claims 35-35 under 35 U.S.C. § 112, first and second paragraphs are moot as these claim have been canceled without prejudice to their further prosecution in one or more continuation applications.

Applicants submit that this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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